

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
IN LEGISLATIVE SESSION

Tuesday, December 14, 1976 Rockville, Maryland

The County Council for Montgomery County, Maryland, convened in Legislative Session in the Council Hearing Room, County Office Building, Rockville, Maryland, at 10:15 A.M. on Tuesday, December 14, 1976.

PRESENT

John L. Menke, President	Esther P. Gelman
Elizabeth L. Scull, Vice President	Jane Ann Moore
Neal Potter, President Pro Tem	Norman L. Christeller
Dickran Y. Hovsepian	

The President in the Chair.

Upon motion of Councilman Christeller, duly seconded and without objection, the Council amended the agenda to allow the Legislative Session to begin at 10:15 A.M., rather than at 10:30 A.M.

INTRODUCTION OF BILLS:

Re: Introduction of Bill No. 53-76, Amendment  
to Taxicab Regulations to Permit Charges  
Under Contract

The Council had before it for consideration Bill No. 53-76, an amendment to Taxicab Regulations to permit charges under contract.

Councilwoman Scull stated that the purpose of this bill is to allow taxicab drivers to charge a lower rate than specified by the fare for contract service, as long as the contract is filed with the Department of Transportation in advance. The taxicab drivers can contract for service with non-profit or low income groups, such as the tenants at Fenwick House. This bill was requested by the Taxicab Service Advisory Committee.

Councilman Christeller noted that the bill does not require the Department of Transportation to make a judgment as to whether or not the contracts filed with it are proper. He does not have enough information to assure him that this will be a satisfactory arrangement, and would like to hear discussion of the issue. He may want to offer an amendment that sets standards in this regard. However,

and Limousines." Montgomery County Code 1972, as amended, to provide that taxicabs may charge rates lower than those computed by the taximeter or as set forth in the schedule of fare rates under a contract filed with the Department of Transportation in advance.

President Menke indicated that he did not vote because he believes the bill is not ready for introduction at this time.

MEMORIALS AND PETITIONS:

There were no memorials or petitions to be presented.

CALL OF BILLS FOR FINAL READING:

Re: Enactment of Bill No. 11-76,  
Employer-Employee Relations

Bill No. 11-76, Employer-Employee Relations, was called for final reading.

Upon motion of Councilman Hovsepian, duly seconded and without objection, the Council approved the following amendments to Bill No. 11-76, as reflected in Draft No. 2 of Bill No. 11-76, dated November 29, 1976, by capital letters indicating additions to the bill as introduced, and strike-throughs indicating deletions from the bill as introduced:

Be It Enacted by the County Council for Montgomery County, Maryland  
that -

- 1           Sec. 1. Chapter 18A, 33, title "PERSONNEL," OF THE MONTGOMERY
- 2 COUNTY COUNCIL IS HEREBY AMENDED TO ADD A NEW ARTICLE IV TITLE "Employer
- 3 Employee Relations," ~~is hereby added~~ to the Montgomery County Code 1972,
- 4 as amended, ~~to follow immediately after Chapter 18~~ ARTICLE III thereof,
- 5 and to read as follows:

ARTICLE IV

EMPLOYER-EMPLOYEE RELATIONS

- 6 33-62. Statement of Legislative intent.

- 7           The County Council hereby finds that the trend in labor
- 8 relations between government and its employees is becoming somewhat
- 9 aligned with the practices of the private sector of representation
- 10 of employee groups by designated and elected employee organizations.

11 The Council believes that government should take the initiative  
12 in providing a vehicle whereby government employee representation  
13 can emerge and evolve in a fashion consistent with both the needs  
14 of the employee and those of government. The Council further believes  
15 that this can best be accomplished by enacting local legislation  
16 which provides for the voluntary representation of government employees  
17 by their duly designated and elected employee organizations. The  
18 Council also believes that the efficient administration of the County  
19 government is enhanced by providing employees an opportunity to  
20 participate in the formulation and implementation of policies and  
21 practices affecting the conditions of their employment. BECAUSE  
22 THE COUNCIL BELIEVES IT IS DESIRABLE TO MINIMIZE THE PROLIFERATION  
23 OF EMPLOYEE UNITS, IT HAS LIMITED THE NUMBER OF SUCH UNITS TO SEVEN;  
24 HOWEVER, THE COUNCIL WOULD CONSIDER CHANGING THAT LIMITATION AT  
25 A FUTURE DATE UPON THE RECOMMENDATION OF THE CHIEF ADMINISTRATIVE  
26 OFFICER OR A GROUP OF EMPLOYEES. THE COUNCIL FURTHER STATES THAT  
27 THE ELIGIBILITY AS TO MEMBERSHIP IN AN EMPLOYEE UNIT FOR PURPOSES  
28 OF MEET AND CONFER WILL NOT NECESSARILY BE EXTENDED IN THE SAME  
29 MANNER IF AUTHORITY FOR COLLECTIVE BARGAINING IS GRANTED.  
30 33-63. Definitions.

31 As used herein, the following words and phrases shall be  
32 defined as follows:

33 a. "Certification" -- the procedure whereby employee organizations  
34 are elected and recognized to represent employee units.

35 ~~br--"Confidential-employee"---an-employee-who-in-the-course-of~~  
36 ~~his/her-regular-duties-has-access-to-or-possesses-information-relating~~  
37 ~~to-matters-which-could-be-the-subject-of-discussions-between-employee~~  
38 ~~organizations-and-the-County-~~

39 b. ~~cr~~ "Decertification" -- the procedure by which the Chief Administrative  
40 Officer withdraws County recognition of an employee organization,  
41 with or without an election by the employees of an employee unit.

42 ~~dr--"Employee"---a-County-merit-system-employee-who-is-given-a-position~~  
43 ~~with-the-anticipation-that-it-will-be-necessary-to-maintain-the-existenc~~  
44 ~~of-such-position-indefinitely-on-a-continuous-full-time,-year-round-basis~~  
45 ~~The-term-"employee-does-not-include-supervisory,-confidential,-and~~  
46 ~~-management-level-employees.~~

47 c. "EMPLOYEE" -- ANY COUNTY MERIT SYSTEM EMPLOYEE WORKING ON A CONTINU-  
48 OUS FULL-TIME, CAREER OR PART-TIME, CAREER BASIS, ELIGIBLE TO BE INCLUDED  
49 IN A UNIT OF RECOGNITION EXCEPT FOR THE FOLLOWING:

- 50 (1) CONFIDENTIAL AIDES TO ELECTED OFFICIALS;
- 51 (2) ALL NON-MERIT SYSTEM EMPLOYEES;
- 52 (3) ALL HEADS OF PRINCIPAL DEPARTMENTS, OFFICES AND AGENCIES;
- 53 (4) DEPUTY OR ASSISTANT DEPARTMENT HEADS;
- 54 (5) EMPLOYEES PROVIDING DIRECT STAFF OR ADMINISTRATIVE  
55 SUPPORT TO THE DIRECTOR OF THE DEPARTMENT, OR DEPUTY OR ASSISTANT  
56 DIRECTORS WITHIN THE DIRECTOR'S IMMEDIATE OFFICE;
- 57 (6) EMPLOYEES WHO REPORT DIRECTLY TO OR WHOSE IMMEDIATE  
58 SUPERVISOR IS THE COUNTY EXECUTIVE, COUNTY COUNCIL, COUNTY COUNCILMEMBERS  
59 OR THE CHIEF ADMINISITRATIVE OFFICER AND THE PRINCIPAL AIDES TO THE  
60 FOREGOING;
- 61 (7) EMPLOYEES OF THE OFFICE OF THE COUNTY ATTORNEY;
- 62 (8) EMPLOYEES OF THE OFFICE OF BUDGET AND RESEARCH;
- 63 (9) EMPLOYEES OF THE OFFICE OF EMPLOYEE RELATIONS;
- 64 (10) EMPLOYEES OF THE PERSONNEL OFFICE;
- 65 (11) EMPLOYEES OF THE PERSONNEL BOARD;
- 66 (12) HEADS OF THE FOLLOWING CONSTITUENT OFFICES, DIVISIONS  
67 AND SECTIONS IN THE DEPARTMENT OF TRANSPORTATION EXISTING AT THE  
68 TIME OF ENACTMENT OF THIS BILL AND POSITIONS CARRYING A SIMILAR DEGREE  
69 OF PERSONNEL MANAGEMENT RESPONSIBILITIES IN OTHER DEPARTMENTS AND  
70 OFFICES AS DETERMINED BY THE CHIEF ADMINISTRATIVE OFFICER:  
71 DIRECTOR'S OFFICE, OFFICE OF THE RIGHT OF WAY ACQUISITION,  
72 OFFICE OF ADMINISTRATIVE SERVICES, OFFICE OF TRANSPORTATION  
73 PLANNING, DIVISION OF TRANSPORTATION ENGINEERING, SUBDIVISION  
74 DEVELOPMENT SECTION, DESIGN SECTION, CONSTRUCTION SECTION,  
75 DIVISION OF TRAFFIC ENGINEERING, TRAFFIC PLANNING AND SURVEY  
76 SECTION, TRAFFIC OPERATIONS SECTION, DIVISION OF OPERATIONS,  
77 TESS MINIBUS, HIGHWAY MAINTENANCE SECTION, EQUIPMENT SECTION,  
78 AND DIVISION OF PARKING LOT DISTRICTS.

79 d. et "Employee organization" -- any lawful organization which

81 represents employees in their employment relations with the County.  
82 The term "employee organization" does not include any organization  
83 which:

84 (1) discriminates with regard to terms and conditions of  
85 membership with regard to race, color, religion, creed,  
86 sex, age, national origin, ancestry, or marital status;  
87 (2) does not adhere to democratic procedures and practices  
88 with regard to election of officers, individual participation  
89 in organizational affairs, equal treatment under its by-  
90 laws, including dues processing, and disciplinary procedures;  
91 or

92 (3) does not maintain fiscal integrity in the conduct of  
93 the affairs of the organization, including accounting controls  
94 and regular financial reports to members.

95 e. fr "Employee unit" -- groupings of employees for purposes of  
96 representation in County/employee relations.

97 gr--"Management-level-employee"----any-employee-involved-directly  
98 in-the-determination-of-policy-or-who-responsibly-directs-the-implemen-  
99 tion-thereof;

100 f. hr "Position paper" -- a non-binding written memorandum reflecting  
101 all items discussed by the County and an employee organization.

102 ir--"Professional-employee"----an-employee-engaged-in-work:

103 (1)--predominantly-intellectual-and-varied-in-character-as  
104 opposed-to-routine,-manually-mechanically,-or-physical-work;  
105 (2)--involving-the-consistent-exercise-of-discretion-and-judgment  
106 in-its-performance;  
107 (3)--of-such-a-character-that-the-output-produced-or-the-result  
108 accomplished-cannot-be-standardized-in-relation-to-a-given-period  
109 of-time,-or  
110 (4)--requiring-knowledge-of-an-advanced-type-in-a-field-of  
111 science-or-learning-customarily-acquired-by-a-prolonged-course  
112 of-specialized-study-in-an-institution-of-higher-learning.

113 jr--"Supervisor"----any-individual-having-the-authority-in-the-interest  
114 of-the-County-to:

115 (1)--hire,-transfer,-suspend,-recall,-layoff,-promote,-discharge  
116 assign-work,-reward-or-discipline-other-employees;

- 117       ~~{2}--adjust-their-grievances;~~  
118       ~~{3}--responsibly-direct-them; or-~~  
119       ~~{4}--effectively-recommend-the-aforementioned-action-~~

120g. "UNIFORM SERVICES" --

121       THOSE ACTIVITIES ENGAGED IN THE PROTECTION OF LIFE AND PROPERTY,  
122 LAW ENFORCEMENT OR CORRECTIONAL ACTIVITIES, AND WHOSE EMPLOYEES  
123 HAVE AS THEIR PRIMARY DUTIES AND RESPONSIBILITIES THE OPERATIONAL  
124 ACTIVITIES OF SUCH PUBLIC SAFETY ACTIVITIES.

125 33-64. Employee rights.

126 a. An employee shall have the right, freely and without fear of  
127 penalty or reprisal, to form, join or assist and be represented  
128 by an employee organization or to refrain from any such activity.

129 b. Each employee shall have the right to be represented by employee  
130 organizations, including the right to meet with representatives  
131 of the County concerning conditions of employment and the resolution  
132 of grievances.

133 c. Nothing in this Article shall preclude the rights of an employee  
134 to pursue an individual grievance through established administrative  
135 procedures or through appeal to the Personnel Board, in that nothing  
136 in this Article shall circumvent or shall be deemed to supersede  
137 or annul the provisions of the Laws of the State of Maryland, the  
138 Montgomery County Charter, and the Laws and Ordinances of Montgomery  
139 County including the Personnel Regulations.

140 d. No employee, who is not a member of an employee organization  
141 shall ever be required to become a member of such an organization  
142 or to pay money to such an organization, except on a purely voluntary  
143 basis.

144 33-65. Determination of employee units.

145 a. The Chief Administrative Officer shall make the final determination  
146 as to the composition of employee units. In undisputed cases, the  
147 determination of appropriate units shall be made by the Chief Administrative  
148 Officer within thirty (30) calendar days after receipt of a request  
149 for certification under Section 33-66 of this Article.

150 b. Employee units may be established on the basis of groupings  
151 of employees who share a clear and identifiable community of interest.

152 Such factors as those employees sharing common skills, working conditions,  
physical locations, organizational structures, and integrated work  
processes shall be considered. A unit shall not be established  
solely on the basis of the extent to which employees in a proposed  
unit have organized.

153 c. Determination of units shall be made so as to include the largest  
154 possible numbers of employees consistent with maintaining a community  
155 interest of employees to avoid proliferation and fragmentation of  
156 representative units. ~~No unit may include employees whose duties~~  
157 ~~are management-level, supervisory, or confidential in nature.~~ THE  
158 PROVISIONS OF THIS SECTION SHALL NOT PRECLUDE THE ESTABLISHMENT  
159 OF ONE UNIT TO REPRESENT ALL ELIGIBLE EMPLOYEES. THE NUMBER OF  
160 UNITS CERTIFIED SHALL NOT BE GREATER THAN SEVEN.

161 ~~d. Professional employees shall not be included in a unit of~~  
162 ~~non-professional employees unless a majority of such professional~~  
163 ~~employees vote for inclusion therein.~~

164 d. e. Units for employees of the uniform services shall be limited  
165 to employees in the ranks of sergeant CORPORAL or equivalent rank  
166 and below.

167 e. f. In cases where the matters of unit determination are questioned,  
168 the decision of the Chief Administrative Officer shall be final.  
169 AFTER OPPORTUNITY IS PROVIDED FOR THOSE DISPUTING THE DETERMINATION  
170 TO BE HEARD BY THE CHIEF ADMINISTRATIVE OFFICER.

171 33-66. Procedures for certification of employee organizations.

172 a. Initially or where there is no official representative employee  
173 organization, the Chief Administrative Officer, upon the petition  
174 of an employee organization showing written evidence of interest  
175 by at least thirty percent (30%) of the employees of the employee  
176 unit, shall arrange for the conducting of a secret ballot election  
177 to determine whether the employees desire such organization to act  
178 as their representative. Following such petition, the Chief Administrative  
179 Officer shall give an appropriate notice to the employees involved.

180 b. An employee organization seeking to represent an employee unit  
181 shall submit to the Personnel Office a roster of its officers and  
182 representatives, a copy of its constitution and by-laws, and a schedule  
183 of dues for its members.

184 c. Eligibility to vote in any election for choice of an official  
185 representative shall be limited to employees who are filling County  
186 positions as of the beginning of the pay period preceding the election  
187 date.

- 188 d. Elections will be performed under the auspices and guidance  
189 of the Maryland State Department of Labor and Industry, Division  
190 of Arbitration, which shall have the responsibilities and powers  
191 given to it under State law. ELECTIONS WILL BE CONDUCTED BY THE  
192 PERSONNEL OFFICE WHICH MAY USE THE SERVICES OF THE MARYLAND STATE  
193 DEPARTMENT OF LABOR AND INDUSTRY OR ANY OTHER THIRD PARTY HAVING  
194 SIMILAR QUALIFICATIONS.
- 195 e. The ballot shall contain the name of any additional employee  
196 organization showing timely written evidence of interest by at least  
197 ten percent (10%) of the employees within the appropriate employee  
198 unit. In every instance, the ballot shall contain a provision for  
199 a marking of "no representation." Where more than one employee  
200 organization is on the ballot and no one of the organizations receives  
201 a majority vote of the employees voting, a runoff election shall  
202 be held. The runoff election shall contain the two choices which  
203 received the largest and second largest number of votes in the original  
204 election.
- 205 f. When an organization receives a majority of valid votes cast  
206 in the election and when at least sixty percent (60%) of the employees  
207 eligible to participate in the election cast valid ballots, the  
208 Chief administrative Officer shall certify it as the official employee  
209 organization for the employee unit.
- 210 g. The County shall recognize as the official employee relations  
211 representative an employee organization which has been selected  
212 in accordance with procedures outlined in this Section 33-66.
- 213 h. Recognizing an employee organization does not preclude the County  
214 from dealing with religious, social, fraternal, professional or  
215 other lawful associations with respect to matters or policies which  
216 involve individual members of the associations or are of particular  
217 applicability to it or its members.
- 218 i. No question concerning certification may be raised by an employee  
219 or an employee organization within one (1) year of the date of certification  
220 of an employee organization or the date that no-representative-was  
221 selected-by-the-majority-of-employees. A MAJORITY OF THE EMPLOYEES  
222 VOTING VOTED FOR NO REPRESENTATION.
- 223 j. THE COUNTY MAY, AFTER DISCUSSIONS WITH AN EMPLOYEE ORGANIZATION  
224 AND ON THE BASIS OF A WRITTEN AUTHORIZATION FROM EACH EMPLOYEE,



225 PROVIDE FOR DEDUCTION FROM THE PAY OF SUCH EMPLOYEE MONIES IN PAYMENT  
226 OF MEMBERSHIP DUES IN A DULY CERTIFIED EMPLOYEE ORGANIZATION. SUCH  
227 MONIES SHALL BE REMITTED TO THE EMPLOYEE ORGANIZATION.

228 33-67. Procedure for decertification of employee organizations.

229 a. An employee organization shall be subject to decertification  
230 when thirty percent (30%) of the employees in the employee unit  
231 petition for the employee organization to be decertified. The procedures  
232 for determining whether, in fact, an employee organization shall  
234 be decertified shall be the same as those prescribed in Section  
235 33-66 for the certification of an employee organization, except  
236 as provided in subsection b of this Section 33-67.

237 b. If an employee organization fails to adhere to any of the provisions  
238 of Section 33-73 dealing with employee organization responsibilities,  
239 then:

240 (1) its certification may be revoked by the Chief Administrative  
241 Officer after notice and an opportunity to be heard, and

242 (2) it may be disqualified by the Chief Administrative  
243 Officer from participating in representation elections for  
244 a period of up to two (2) years after notice and an opportunity  
245 to be heard.

246 33-68. Costs of conducting elections.

247 Any cost of conducting a secret ballot election under this  
248 Article shall be borne equally 50% by the County and 50% BORNE EQUALLY  
249 by the employee organization(s) whose name(s) appear on the ballots.

250 33-69. County-employee organization meetings and discussions.

251 a. An employee organization which has been recognized by the County  
252 pursuant to Section 33-66 shall be entitled to meet at reasonable  
253 times with County representatives to discuss with such representatives  
254 personnel policies, practices and matters affecting working conditions  
255 of the employee unit it represents, so far as discussions may be  
256 appropriate under existing laws or regulations. The County shall  
257 meet at least once-every-two-years TWO TIMES ANNUALLY with each  
258 certified employee organization.

259 ~~but--Such-meetings-and-discussions-shall-not-include-matters-with~~  
260 ~~respect-to-the-mission-of-the-County-government, its budget, its~~  
261 ~~organization, the number of employees and the classifications and~~

262 ~~grades-of-positions-of-employees-assigned-to-an-employee-unity-work~~  
263 ~~projects-or-tour-of-duty,-the-technology-of-performing-County-work,~~  
264 ~~or-other-provisions-that-are-inherent-in-the-managerial-process-of~~  
265 ~~determining-the-necessary-steps-to-carry-out-the-public-service~~  
266 ~~missions-of-the-County.---Furthermore,-the-County-shall-not-be-obligated~~  
267 ~~to-discuss-matters-which-must-necessarily-be-applicable-to-all-employees~~  
268 ~~on-a-uniform-basis,-such-as-the-Employees'-Retirement-System-and-the~~  
269 ~~Uniform-Pay-Schedule.---However,-the-County-may-meet-with-employee~~  
270 ~~organizations-for-the-purpose-of-hearing-their-views-on-such-matters.~~

271 ~~or b.~~ The requirement to meet shall not obligate either the County  
272 or an employee organization to agree to any proposal or to make  
273 any concession with respect to any matter discussed by the parties  
274 at such a meeting. Any decision made at any such meeting is in no  
275 way binding upon the parties.

276 ~~or c.~~ The County and an employee organization may, if desired,  
277 and at the conclusion of their discussions prepare written position  
278 papers which reflect for future reference the respective positions  
279 of the parties on the issues discussed at such meetings. Such position  
280 papers shall in no way legally bind any party to the matters expressed  
281 therein.

282 33-70. Employee organization representation of employee members.

283 a. An employee who is a member of an employee organization may  
284 request and shall be granted the right for a member OR REPRESENTATIVE  
285 of such organization to be present in any discussions or counseling  
286 with County representatives concerning an individual grievance.

287 b. An employee organization may submit a grievance concerning any  
288 dispute involving a claim of violation, misinterpretation or misapplication  
289 of the Personnel Regulations or work practices of the County on  
290 the same basis as provided for individual grievances.

291 33-71. Disputes.

292 All decisions of the Chief Administrative Officer under  
293 the provisions of this Article shall be final, subject to appeal  
294 to the Montgomery County Personnel Board where provided by law.

295 33-72. County responsibilities.

296 It shall be the responsibility of the County not to:

297 a. interfere with, restrain, or coerce an employee in the  
298 exercise of the rights assured by this Article:

- 299 b. encourage or discourage membership in an employee organization  
300 by discrimination in regard to hiring, tenure, promotion  
301 or other conditions of employment;
- 302 c. sponsor, control or otherwise assist an employee organization,  
303 except that the County may furnish customary and routine  
304 services and facilities when consistent with the best interest  
305 of the County, its employees, and the organization, and  
306 when the services and facilities are furnished, if requested,  
307 on an impartial basis to organizations having equivalent  
308 status;
- 309 d. refuse to accord appropriate recognition to an employee  
310 organization qualified for such recognition; or
- 311 e. refuse to consult, confer, or meet with an employee organization  
312 certified pursuant to this Article.
- 313 33-73. Employee organization responsibilities.
- 314 It shall be the responsibility of every employee organization  
315 not to:
- 316 a. interfere with, restrain, or coerce an employee in the exercise  
317 of the rights assured by this Article;
- 318 b. attempt to induce the County to coerce an employee in the  
319 exercise of the rights under this Article;
- 320 c. coerce, attempt to coerce, or discipline, fine, or take  
321 other economic sanction against an employee member of an  
322 employee organization as punishment or reprisal, or for  
323 the purpose of hindering or impeding work performance or  
324 the discharge of duties owed as an employee of the County;
- 325 d. call or engage in a strike, work stoppage, or slowdown,  
326 picket the County IN CONNECTION WITH A STRIKE, WORK STOPPAGE  
327 OR SLOWDOWN in a County-employee dispute, or condone any  
328 such activity by failing to take affirmative action to prevent  
329 or stop it;
- 330 e. discriminate against an employee with regard to the terms  
331 or conditions of membership because of race, color, religion,  
332 creed, sex, age, national origin, ancestry, or marital status;
- 1 Sec. 2. Severability.
- 2 The provisions of this Act are severable and if any provision,

3 clause, sentence, section, word or part thereof is held illegal,  
4 invalid or unconstitutional, or inapplicable to any person or circum-  
5 stances, such illegality, invalidity or unconstitutionality, or inappli-  
6 cability shall not affect or impair any of the remaining provisions,  
7 clauses, sentences, sections, words, or parts of the Act or their  
8 application to other persons or circumstances. It is hereby declared  
9 to be the legislative intent that this Act would have been adopted  
10 if such illegal, invalid, or unconstitutional provision, clause,  
11 sentence, section word or part had not been included therein, and  
12 if the person or circumstances to which the Act or part thereof is  
13 inapplicable had been specifically exempted therefrom.

1 Sec. 3. Effective date.

2 This Act shall take effect on the 76th day following the date  
3 on which it becomes law.

At the suggestion of Councilman Christeller and without objection, the Council deleted the word [a] on line 26, page 2, and inserted in lieu thereof an affected; and on line 28, deleted [will] and inserted in lieu thereof: type of employee representation would; and on line 29, delete [is] and insert were.

Addressing a memorandum from James A. Mills, President, Montgomery County Government Employees Organization, dated December 13, 1976, concerning the membership eligibility restrictions, Councilman Christeller stated that there is a lot to be said in support of Mr. Mills' concerns, but the fact remains that one of the functions of an employee group under this bill will be participation by such employee groups in the grievance process. In those circumstances, he does not believe the employee groups should include senior supervisory personnel.

Councilman Hovsepian stated that the Council has to consider the possibility of enabling legislation for collective bargaining in the future, and has to be careful in setting precedents for membership in organizations. The Council discussed carefully the types of positions in terms of who would be involved in negotiations.

President Menke expressed the view that since employee groups will be involved in grievance procedures, section and division heads cannot be involved on both sides of the issue.

Councilman Potter expressed the view that the exclusions contained in Bill No. 11-76 are broad. He agreed with Mr. Mills' position that the group should be relatively broad to discuss the problems and concerns of all employees. It is desirable to avoid employee organizations that fragment employees and stir up issues. He suggested the need for further discussion of exclusions from employee organizations, stating that full exclusion of certain Executive management offices may be too broad.

Councilman Christeller expressed the view that employees of the Personnel Office and Personnel Board, which are directly involved in grievances and other problems being discussed by employee organizations, cannot be members of those organizations. The same is true of the Employee Relations Division and the Office of the County Attorney. The Assistant County Attorneys will be called upon to represent the County government in disputes between the government and the organizations. It would be difficult to draw a line between the attorneys

and the people assisting them; hence, the Council agreed that all employees of that office would be excluded. Employees of the Office of Budget and Research will make recommendations on budget impact matters to the County Executive; these employees cannot also be part of an employee organization.

Councilman Potter agreed that employees with the types of responsibilities outlined by Councilman Christeller should be excluded from employee organizations, but stated that many employees in those offices do not have such responsibilities.

Councilwoman Moore agreed with Councilman Potter, stating that the Council should not exclude those employees who are not involved in making high-level decisions from protecting their rights by joining an employee group.

Councilman Potter moved, duly seconded, that line 61, page 3, excluding employees of the Office of the County Attorney from joining employee organizations, be deleted from Bill No. 11-76.

Councilman Christeller stated that, if adopted, Councilman Potter's motion would exclude only the County Attorney and two Deputy County Attorneys and the administrative aides who work directly for them. The Assistant County Attorney who is assigned to advise the Personnel Board could be a member. However, from a professional standpoint, this attorney probably would not join the organization. The administrative aide to this attorney could join the organization. He expressed the view that it is difficult to make such a distinction within the staff of a relatively small office where two or three people would have to deal with matters under discussion with the employee organization and keep them secret from the other employees in that office.

Councilman Potter stated that, if adopted, he would offer substitute language for line 61, excluding, "Employees of the Office of the County Attorney who have administrative responsibilities and those who are assigned to deal with personnel matters."

Assistant County Attorney Levin stated that the language proposed by Councilman Potter would include everyone in the County Attorney's Office. All Assistant County Attorneys are assigned Personnel Board cases over and above their assignments to particular departments.

President Menke stated that if the employee organizations were not to be involved in grievances, he would agree with Councilman Potter's approach, however, given the involvement of the organization in the representation of employees, there would be a clear conflict for the supervisors to be in the organization.

Councilman Potter's motion failed, Councilmembers Potter and Moore voting in the affirmative and Councilmembers Hovsepian, Christeller, Menke, Scull and Gelman voting in the negative.

Councilman Potter moved, duly seconded, that the following language be added to the end of line 62: who have administrative responsibilities.

Councilman Christeller stated that when the employee organization recommends a change in the fringe benefit program, cost-of-living increase, or the compensation schedule, the County Executive and CAO will have to call upon the Office of Budget and Research for advice and recommendations concerning the budgetary implications of such a recommendation. The County Executive would expect to receive objective, professional advice. To allow employees of the Office of Budget and Research to be members of the employee organization that made the recommendations that are evaluated in that office would raise questions about the objectivity. It is not realistic to specify that the County Executive will have to rely solely on the Director and Deputy Director to do this work.

Councilman Potter's motion failed, Councilmembers Potter and Moore voting in the affirmative and Councilmembers Hovsepian, Christeller, Menke, Scull and Gelman voting in the negative.

Councilman Potter moved, duly seconded, that the following language be added to the end of line 64: who have administrative responsibilities, or who are responsible for rating or recommending employees or applicants, or for making disciplinary decisions.

Upon a suggestion that the term "administrative" is too broad, and without objection, Councilman Potter amended his motion to delete [administrative] and insert in lieu thereof supervisory. He further amended the motion to insert the words and classifying in lieu of the words [or recommending].

Director of the Office of Personnel Lloyd stated that employees in the clerical pool are no longer part of the Personnel Office and would not be excluded from joining an employee organization; the same is true of the Medical Section, which has been transferred to the Health Department. Earlier comments about direct staff support to the County Executive and CAO would apply equally to the Personnel Office. The staff will be involved in developing positions and policies on matters that would be of immediate concern to the employee organization.

Without objection, Councilman Potter withdrew his motion.

Councilman Hovsepian expressed the hope that the Executive will review the organization and structure of the Executive Branch and propose some reorganizational changes for consistency.

Without objection, the Council deleted the word [uniform] on lines 120 and 164, pages 5 and 6, and inserted in lieu thereof the word uniformed.

At the suggestion of Councilman Christeller and without objection, the Council deleted the language on lines 188 through the words "State law." on line 191, page 7.

With respect to the issue of dues check-off, Councilman Christeller moved, duly seconded, to delete the word [may] from line 223, and insert in lieu thereof the word shall.

Mr. Lloyd expressed the view that collection of dues should not be included in the bill, but should be left as a matter of discussion between the government and employee organization. Some Councilmembers wanted to include explicit language. The language that was developed is a compromise between those two positions.

President Menke noted that the Council agreed during worksessions on this bill that if the County Executive refuses to provide dues check-off, the Council can consider a legislative bill to require it.

Councilman Christeller's motion failed, Councilmembers Christeller and Menke voting in the affirmative and Councilmembers Hovsepian, Moore, Gelman, Potter and Scull voting in the negative.

Councilman Potter moved that the Council insert the words and agreement after the word "discussions" on line 223. His motion failed for lack of a second.

Addressing the County Executive's memorandum to the Council, dated December 10, 1976, in which he suggested additional language prohibiting position papers on matters of management rights, Councilman Christeller stated that he does not understand the intent of the suggestion. He stated that a position paper does not interfere with the rights of the County Executive to manage, but it does offer an opportunity for an employee group to be on record as to what it is recommending. He stated that the amendment proposed by the County Executive would be in violation of the First Amendment to the Constitution.



Mr. Lloyd stated that the suggested amendment is to specify that joint position papers will not result from discussions concerning inherent management rights.

Councilman Hovsepian stated that nothing in the bill implies that position papers are to be accepted; they are developed for the purposes of discussion.

Upon motion of Councilman Christeller, duly seconded and without objection, the Council inserted the words jointly or separately after the word "discussions" on line 277, page 9, and inserted the following language at the end of line 281: and the County shall not be obligated to concur in a position paper addressing the inherent right to manage the County government.

In response to a question from Councilwoman Moore as to how employee input would be obtained on matters such as withdrawal from Social Security once this bill is adopted, Mr. Lloyd stated that the position expressed by an organization would be considered along with all other positions. Of necessity, the Social Security question has to be addressed across-the-board for all employees. Technically, this issue would be a management right because it involves a contractual situation with the Social Security Administration; but, as a practical matter, no decisions affecting employees such as Social Security would be taken without input from a lot of employees.

Vice President Scull in the Chair.

President Menke moved, duly seconded, that the following language be added to the end of line 29, page 2: Membership or non-membership in an employee organization shall in no way limit the ability of an employee to obtain government information to which he/she would normally have access. Nothing in this Article shall restrict the ability of any employee, whether member or non-member of an employee organization, to discuss matters concerning employees or employee groups to the extent that such discussion does not conflict with the duties and responsibilities of the employee. Without objection, the motion was adopted.

President Menke in the Chair.

Upon motion of Councilman Hovsepian, duly seconded and without objection, the Council voted to waive the reading of the title and proceed to enactment of

12/14/76

Bill No. 11-76. By a yea and nay vote, Councilmembers Gelman, Christeller, Scull, Hovsepian, Moore, Potter and Menka voting in the affirmative, Bill No. 11-76, Employer-Employee Relations, was enacted, as amended.

Councilman Christeller expressed the view that Bill No. 11-76 provides a good mechanism for recognizing employee organizations. He regrets that MCGEO believes the Council has gone too far in excluding supervisory personnel from joining such organizations, and expressed the hope that a broad cross-section of employees will join a single organization.

President Menke indicated that he would be willing to consider amendments to the law to expand the membership of employee organizations if answers to some of the questions raised during worksessions can be provided.

(The Council recessed at 11:45 A.M., and reconvened at 12:00 M.)

Vice President Scull in the Chair.

Re: Enactment of Bill No. 44-76, Automatic Termination for Members of Boards, Committees and Commissions

Bill No. 44-76, Automatic Termination for Members of Boards, Committees and Commissions, was called for final reading.

The Council had before it for consideration Draft No. 2 of Bill No. 44-76, dated December 10, 1976. Vice President Scull stated that this bill has been amended to reflect the decisions made by the Council at the worksessions. The objective of this bill is to deal with the problems raised by certain boards that have been troubled with absenteeism among their members. This causes problems with quorums and the distribution of workloads. It is neither sensible nor fair to allow non-functioning board members to continue to serve in view of the fact that each time a vacancy is advertised, there are many well-qualified applicants and not enough positions for them to fill.

President Menke in the Chair.

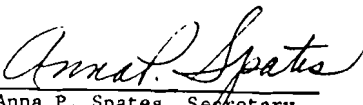
Upon motion of Councilwoman Scull, duly seconded and without objection, Councilwoman Gelman not voting, the Council adopted the following amendments to Bill No. 44-76, as reflected in Draft No. 2, with underlining indicating language added to present law, brackets indicating language deleted from present law, capital letters indicating language added to the bill as introduced, and strike-throughs indicating deletions from the bill as introduced:

MISCELLANEOUS BUSINESS:

Councilman Hovsepian requested that Mr. Tierney check the provisions of the recently-enacted Financial Disclosure Law to determine if the upcoming appointment to the Personnel Board must file a statement prior to appointment.

There being no further official business to come before the County Council in Legislative Session, the meeting adjourned at 12:15 P.M., to reconvene at 1:30 P.M. on Tuesday, December 21, 1976, or at the call of the President.

ATTEST:

  
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Anna P. Spates, Secretary  
of the County Council for  
Montgomery County, Maryland